

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Scott Mehrwerth,

Plaintiff,

Court File No. **0:16-cv-04225-JRT-LIB**

v.

**DEFENDANT'S STATEMENT OF
FACTS AND DAMAGES**

AFS Check Systems, Inc. d/b/a
Sheldon Law Office,
Defendant.

I.

DEFENDANT'S STATEMENT OF FACTS

This case arises out of alleged violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, et seq., and Invasion of Privacy. (ECF No. 1). Patrick Kolling, the owner/operator of AFS Check Systems, Inc. (hereinafter "AFS"), was served with Plaintiff's Complaint on or about January 4, 2017. Mr. Kolling immediately contacted Plaintiff's counsel and informed him the wrong entity had been served and that AFS was not in the business of collections. Even after being informed of the same, Plaintiff took no steps to correct the error of the wrong Defendants being named. AFS filed its Answer on January 24, 2017. (ECF No. 4).

In his Complaint, Plaintiff initially states that he received a voicemail message on his cell phone from Defendant. However, as stated in Defendant's Answer, Defendant AFS is neither in the business of debt collection, nor is it now or in the past, operated under the name of Sheldon Law office. In Plaintiff's Statement of Facts and Damages, Plaintiff now alleges that his mother received a debt collection phone call from the Langner Law Office (not a named party) and alleges that that call violated 15 U.S.C. §§ 1692c(b) and 1692d. Plaintiff further alleges that

some time on or about November 10, 2016, he received a voicemail message on his cell phone from telephone number 320-259-1636. He further alleges that this voicemail message was left by a representative from Langner Law Office and that that communication violated of 15 U.S.C. §§ 1692d, 1692e, 1692e(5), and 1692f. Plaintiff also alleges that a representative of Langner Law Office failed to identify herself as a collection agent and failed to provide Plaintiff with the mandated mini-Miranda warning in violation of 15 U.S.C. §§ 1692d(6) and 1692e(11).

Defendant continues to pursue this action despite the fact that he is aware and has, in fact, acknowledged that the wrong Defendants were named in this action. Langner Law Office, LLC rents office space with several different entities, including AFS and another law firm who is also a separate entity. All entities who share that office also share one fax line, and that number is 320-259-1636.

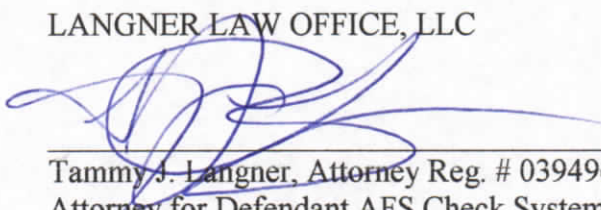
II.

DEFENDANT'S STATEMENT OF DAMAGES:

- That an order be entered declaring that Plaintiff's actions are frivolous and must be dismissed with prejudice;
- That the Court award costs and reasonable attorney's fees to Defendant for the necessity of defending this frivolous action.

LANGNER LAW OFFICE, LLC

Dated: March 7, 2017



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